

**From:** 80788-57318878@requests.muckrock.com on behalf of '80788-57318878@requests.muckrock.com' <80788-57318878@requests.muckrock.com>  
**Sent:** Monday, October 14, 2019 3:43 PM  
**To:** esd.sm.foil  
**Cc:** esd.sm.foil  
**Subject:** RE: New York Freedom of Information Law Request: Beowulf Coal Cuomo (Empire State Development)

*ATTENTION: This email came from an external source. Do not open attachments or click on links from unknown senders or unexpected emails.*

Empire State Development  
FOIL Office  
633 3rd Avenue  
New York, NY 10017

October 14, 2019

This is a follow up to a previous request:

To Whom It May Concern:

Thank you for your response to my previous request. In order to drastically narrow my original records request, pursuant to the New York Freedom of Information Law, I hereby request any emails sent between November 1, 2015 and February 29, 2016 either:

- from Gov. Andrew Cuomo's office or Empire State Development to or cc'ing Michael Enright or Paul Prager, executives of Beowulf Energy and Heorot Power
- or sent to Gov. Andrew Cuomo's office or Empire State Development from or cc'ing Michael Enright or Paul Prager, executives of Beowulf Energy and Heorot Power

The requested documents will be made available to the general public, and this request is not being made for commercial purposes.

In the event that there are fees, I would be grateful if you would inform me of the total charges in advance of fulfilling my request. I would prefer the request filled electronically, by e-mail attachment if available or CD-ROM if not.

Thank you in advance for your anticipated cooperation in this matter. I look forward to receiving your response to this request within 5 business days, as the statute requires.

Sincerely,

Kate Kaye

Filed via MuckRock.com

E-mail (Preferred): [80788-57318878@requests.muckrock.com](mailto:80788-57318878@requests.muckrock.com)

Upload documents directly: [https://accounts.muckrock.com/accounts/login/?](https://accounts.muckrock.com/accounts/login/?next=https%3A%2F%2Fwww.muckrock.com%2Faccounts%2Flogin%2F%3Fnext%3D%252Faccounts%252Fagency_login%252Fempire-state-development-2616%252Fbeowulf-coal-cuomo-empire-state-development-80788%252F%253Femail%253DFOIL%252540esd.ny.gov&url_auth_token=AAAWH_GEacafHf3zs-aVfEcBfck%3A1iK6Eo%3A1OgKE7GfeYC_vcm4X8PFgnMrQx4)

[next=https%3A%2F%2Fwww.muckrock.com%2Faccounts%2Flogin%2F%3Fnext%3D%252Faccounts%252Fagency\\_login%252Fempire-state-development-2616%252Fbeowulf-coal-cuomo-empire-state-development-80788%252F%253Femail%253DFOIL%252540esd.ny.gov&url\\_auth\\_token=AAAWH\\_GEacafHf3zs-aVfEcBfck%3A1iK6Eo%3A1OgKE7GfeYC\\_vcm4X8PFgnMrQx4](https://accounts.muckrock.com/accounts/login/?next=https%3A%2F%2Fwww.muckrock.com%2Faccounts%2Flogin%2F%3Fnext%3D%252Faccounts%252Fagency_login%252Fempire-state-development-2616%252Fbeowulf-coal-cuomo-empire-state-development-80788%252F%253Femail%253DFOIL%252540esd.ny.gov&url_auth_token=AAAWH_GEacafHf3zs-aVfEcBfck%3A1iK6Eo%3A1OgKE7GfeYC_vcm4X8PFgnMrQx4)

Is this email coming to the wrong contact? Something else wrong? Use the above link to let us know.

For mailed responses, please address (see note):

MuckRock News  
DEPT MR 80788  
411A Highland Ave  
Somerville, MA 02144-2516

PLEASE NOTE: This request is not filed by a MuckRock staff member, but is being sent through MuckRock by the above in order to better track, share, and manage public records requests. Also note that improperly addressed (i.e., with the requester's name rather than "MuckRock News" and the department number) requests might be returned as undeliverable.

---

On Oct. 2, 2019:

Subject: FOIL Response - Kaye #3012

Dear Ms. Kaye,

This email addresses your September 24, 2019, FOIL request. The Freedom of Information Law ("FOIL") and the Committee on Open Government make clear that records sought in a FOIL request must be "reasonably described." (Public Officers Law §89(3)). In an August 20, 2012, advisory opinion, the Committee opined that "agency staff are not required to engage in herculean or unreasonable efforts in locating records to accommodate a person seeking records." and found it to be an "unreasonable burden ... to require an agency to review perhaps thousands of individual records in order to identify those portions of such records that are required to be made available." <https://docs.dos.ny.gov/coog/ftext/2013/18949.html>.

In the opinion cited above, the Committee was considering a request for e-mail communications between two individuals. In this instance, your request is extremely broad, as you seek:

any emails sent to or from or cc'ing Michael Enright, Jordan Love or Paul Prager of Beowulf Energy and/or Heorot Power sent to or from anyone in Gov. Andrew Cuomo's office or Empire State Development between January 2015 and September 23, 2019. and you have provided insufficient detail to allow us to search a narrower subset than the entire population of records of approximately 500 ESD employees over a broad period of time.

Therefore, Empire State Development finds that your request is not "reasonably described." Accordingly, we will not be able to respond to your request as submitted. Please feel free to resubmit your request with a clarified scope to permit us to conduct a diligent search for responsive records.

Pursuant to Public Officers Law §89(4)(a), you have thirty (30) days to appeal this determination. An appeal of any portion of this determination should be directed to Empire State Development's appeals officer, New York State Urban Development Corporation d/b/a Empire State Development, 633 Third Avenue, 37th Floor, New York, NY 10017, [FOILAppeal@esd.ny.gov](mailto:FOILAppeal@esd.ny.gov)<<mailto:FOILAppeal@esd.ny.gov>>.

Kindly confirm receipt of this email. Thank you.

Records Access Officer

[FOIL@esd.ny.gov](mailto:FOIL@esd.ny.gov)<<mailto:FOIL@esd.ny.gov>>

IMPORTANT: This e-mail message and any attachments contain information intended for the exclusive use of the individual(s) or entity to whom it is addressed and may contain information that is proprietary, privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient, you are hereby notified that any viewing, copying, disclosure or distribution of this information may be subject to legal restriction or sanction. Please immediately notify the sender by electronic mail or notify the System Administrator by telephone (518)292-5180 or e-mail ([administrator@esd.ny.gov](mailto:administrator@esd.ny.gov)) and delete the message. Thank you.

---

On Sept. 23, 2019:

Subject: New York Freedom of Information Law Request: Beowulf Coal Cuomo (Empire State Development)

To Whom It May Concern:

Pursuant to the New York Freedom of Information Law, I hereby request the following records:

I would like to obtain any emails sent to or from or cc'ing Michael Enright, Jordan Love or Paul Prager of Beowulf Energy and/or Heorot Power sent to or from anyone in Gov. Andrew Cuomo's office or Empire State Development between January 2015 and September 23, 2019.

The requested documents will be made available to the general public, and this request is not being made for commercial purposes.

In the event that there are fees, I would be grateful if you would inform me of the total charges in advance of fulfilling my request. I would prefer the request filled electronically, by e-mail attachment if available or CD-ROM if not.

Thank you in advance for your anticipated cooperation in this matter. I look forward to receiving your response to this request within 5 business days, as the statute requires.

Sincerely,

Kate Kaye

Filed via MuckRock.com

E-mail (Preferred): [80788-57318878@requests.muckrock.com](mailto:80788-57318878@requests.muckrock.com)

Upload documents directly: [https://accounts.muckrock.com/accounts/login/?](https://accounts.muckrock.com/accounts/login/?next=https%3A%2F%2Fwww.muckrock.com%2Faccounts%2Flogin%2F%3Fnext%3D%252Faccounts%252Fagency_login%252Fempire-state-development-2616%252Fbeowulf-coal-cuomo-empire-state-development-80788%252F%253Femail%253DFOIL%252540esd.ny.gov&url_auth_token=AAAWWh_GEacafHf3zs-aVfEcBfck%3A1iK6Eo%3A1OgKE7GfeYC_vcm4X8PFgnMrQx4)

[next=https%3A%2F%2Fwww.muckrock.com%2Faccounts%2Flogin%2F%3Fnext%3D%252Faccounts%252Fagency\\_login%252Fempire-state-development-2616%252Fbeowulf-coal-cuomo-empire-state-development-80788%252F%253Femail%253DFOIL%252540esd.ny.gov&url\\_auth\\_token=AAAWWh\\_GEacafHf3zs-aVfEcBfck%3A1iK6Eo%3A1OgKE7GfeYC\\_vcm4X8PFgnMrQx4](https://accounts.muckrock.com/accounts/login/?next=https%3A%2F%2Fwww.muckrock.com%2Faccounts%2Flogin%2F%3Fnext%3D%252Faccounts%252Fagency_login%252Fempire-state-development-2616%252Fbeowulf-coal-cuomo-empire-state-development-80788%252F%253Femail%253DFOIL%252540esd.ny.gov&url_auth_token=AAAWWh_GEacafHf3zs-aVfEcBfck%3A1iK6Eo%3A1OgKE7GfeYC_vcm4X8PFgnMrQx4)

Is this email coming to the wrong contact? Something else wrong? Use the above link to let us know.

For mailed responses, please address (see note):

MuckRock News

DEPT MR 80788

411A Highland Ave

Somerville, MA 02144-2516

PLEASE NOTE: This request is not filed by a MuckRock staff member, but is being sent through MuckRock by the above in order to better track, share, and manage public records requests. Also note that improperly addressed (i.e., with the requester's name rather than "MuckRock News" and the department number) requests might be returned as undeliverable.